

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RAUL ALBERTO PEREZ-REYES, }
v. Plaintiff, } Civil Action No. 07-340 Erie
JEFFREY BEARD, et al., }
Defendants. }

MEMORANDUM ORDER

Plaintiff's civil rights complaint was received by the Clerk of Court on December 10, 2007 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation, entered orally on the record on March 3, 2009 [106], is that the motion [104] for Order to Show Cause filed by Marilyn S. Brooks, Jeffrey Beard, Linda Maruschak, Doctor Calderbank, and Maxine Overton, be construed as a motion to dismiss for failure to prosecute, and be granted, as the Plaintiff is no longer incarcerated at SCI Albion, his last known address of record, and Plaintiff has failed to provide either this Court or the parties a forwarding address. Although Plaintiff could not be reached and was not present to participate in the March 3, 2009 telephonic conference, he was given ten (10) days in which to file objections to the Report and Recommendation. To date, no objections have been filed. After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 28th day of April, 2009;

IT IS HEREBY ORDERED that the instant civil rights action be, and hereby is, DISMISSED due to the Plaintiff's failure to prosecute.

The Report and Recommendation of Chief Magistrate entered orally on the record on March 2, 2009 [106] is adopted as the opinion of this Court.

In accordance with Fed. R. Civ. P. 5(b), a copy of this order shall be mailed to the Plaintiff's last known address and, in addition, a copy will be left with the Clerk of Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: all parties of record.
Chief U.S. Magistrate Judge Susan Paradise Baxter